

## PART 199.5 - TRICARE EXTENDED CARE HEALTH OPTION (ECHO)

**(a) General.** (1) The TRICARE ECHO is essentially a supplemental program to the TRICARE Basic Program. It does not provide acute care nor benefits available through the TRICARE Basic Program.

(2) The purpose of the ECHO is to provide an additional financial resource for an integrated set of services and supplies designed to assist in the reduction of the disabling effects of the beneficiary's qualifying condition. Services include those necessary to maintain, minimize or prevent deterioration of function of an ECHO-eligible beneficiary.

**(b) Eligibility.** (1) The following categories of TRICARE/CHAMPUS beneficiaries with a qualifying condition are eligible for ECHO benefits:

(i) A child or spouse (as described in 10 U.S.C. 1072(2)(A), (D), or (I)) of a member of one of the Uniformed Services; or

(ii) An abused dependent as described in Sec. 199.3(b)(2)(iii); or

(iii) A child or spouse (as described in 10 U.S.C. 1072(2)(A), (D), or (I)) of a member of one of the Uniformed Services who dies while on active duty. In such case the child or spouse remain eligible for benefits under the ECHO for a period of three years from the date the active duty sponsor dies; or

(iv) A child or spouse (as described in 10 U.S.C. 1072(2)(A), (D), or (I)) of a deceased member of one of the Uniformed Services, who, at the time of the member's death was receiving benefits under ECHO, and the member at the time of death was eligible for receipt of hostile-fire pay, or died as a result of a disease or injury incurred while eligible for such pay. In such case the child or spouse remain eligible through midnight of the beneficiary's twenty-first birthday.

(2) Qualifying condition. The following are qualifying conditions:

(i) Mental retardation. A diagnosis of moderate or severe mental retardation made in accordance with the criteria of the current edition of the "Diagnostic and Statistical Manual of Mental Disorders" published by the American Psychiatric Association.

(ii) Serious physical disability. A serious physical disability as defined in Sec. 199.2.

(iii) Extraordinary physical or psychological condition. An extraordinary physical or psychological condition as defined in Sec. 199.2.

(iv) Infant/toddler. Beneficiaries under the age of 3 years who are diagnosed with a neuromuscular developmental condition or other condition that is expected to precede a diagnosis of moderate or severe mental retardation or a serious physical disability, shall be deemed to have a qualifying condition for the ECHO. The Director, TRICARE Management

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Activity or designee shall establish criteria for ECHO eligibility in lieu of the requirements of paragraphs (b)(2)(i), (ii) or (iii) of this section.

(v) Multiple disabilities. The cumulative effect of multiple disabilities, as determined by the Director, TRICARE Management Activity or designee shall be used in lieu of the requirements of paragraphs (b)(2)(i), (ii) or (iii) of this section to determine a qualifying condition when the beneficiary has two or more disabilities involving separate body systems.

(3) Loss of ECHO eligibility. Eligibility for ECHO benefits ceases as of 12:01 a.m. of the day following the day that:

(i) The sponsor ceases to be an active duty member for any reason other than death; or

(ii) Eligibility based upon the abused dependent provisions of paragraph (b)(1)(ii) of this section expires; or

(iii) Eligibility based upon the deceased sponsor provisions of paragraphs (b)(1)(iii) or (iv) of this section expires; or

(iv) Eligibility based upon a beneficiary's participation in the Transitional Assistance Management Program ends; or

(v) The Director, TRICARE Management Activity or designee determines that the beneficiary no longer has a qualifying condition.

(4) Continuity of eligibility. A TRICARE beneficiary who has an outstanding Program for Persons with Disabilities (PPPWD) benefit authorization on the date of implementation of the ECHO program shall continue receiving such services for the duration of that authorization period provided the beneficiary remains eligible for the PFPWD. Upon termination of an existing PFPWD authorization, if the beneficiary seeks benefits under this section before such termination, the beneficiary shall establish eligibility for the ECHO in accordance with this section.

**(c) ECHO benefit.** Items and services that the Director, TRICARE Management Activity or designee has determined are capable of confirming, arresting, or reducing the severity of the disabling effects of a qualifying condition, includes, but are not limited to:

(1) Diagnostic procedures to establish a qualifying condition or to measure the extent of functional loss resulting from a qualifying condition.

(2) Medical, habilitative, rehabilitative services and supplies, durable equipment that is related to the qualifying condition. Benefits may be provided in the beneficiary's home or other environment as appropriate.

(3) Training that teaches the use of assistive technology devices or to acquire skills that are necessary for the management of the qualifying condition. Such training is also authorized for the beneficiary's immediate family. Vocational training, in the beneficiary's home or a facility providing such, is also allowed.

(4) Special education as provided by the Individuals with Disabilities Education Act and

defined at 34 CFR 300.26 and that is specifically designed to accommodate the disabling effects of the qualifying condition.

(5) Institutional care within a state, as defined in Sec. 199.2, in private nonprofit, public, and state institutions and facilities, when the severity of the qualifying condition requires protective custody or training in a residential environment. For the purpose of this section protective custody means residential care that is necessary when the severity of the qualifying condition is such that the safety and well-being of the beneficiary or those who come into contact with the beneficiary may be in jeopardy without such care.

(6) Transportation of an ECHO beneficiary, and a medical attendant when necessary to assure the beneficiary's safety, to or from a facility or institution to receive authorized ECHO services or items.

(7) Respite care. ECHO beneficiaries are eligible for 16 hours of respite care per month in any month during which the beneficiary otherwise receives an ECHO benefit(s). Respite care is defined in Sec. 199.2. Respite care services will be provided by a TRICARE-authorized home health agency and will be designed to provide health care services for the covered beneficiary, and not baby-sitting or child-care services for other members of the family. The benefit will not be cumulative, that is, any respite care hours not used in one month will not be carried over or banked for use on another occasion.

(i) TRICARE-authorized home health agencies must provide and bill for all authorized ECHO respite care services through established TRICARE claims' mechanisms. No special billing arrangements will be authorized in conjunction with coverage that may be provided by Medicaid or other federal, state, community or private programs.

(ii) For authorized ECHO respite care, TRICARE will reimburse the allowable charges or negotiated rates.

(iii) The Government's cost-share incurred for these services accrue to the maximum monthly benefits of \$2,500.

(8) Other services. (i) Assistive services. Services of qualified personal assistants, such as an interpreter or translator for ECHO beneficiaries who are deaf or mute and readers for ECHO beneficiaries who are blind, when such services are necessary in order for the ECHO beneficiary to receive authorized ECHO benefits.

(ii) Equipment adaptation. The allowable equipment purchase shall include such services and modifications to the equipment as necessary to make the equipment useable for a particular ECHO beneficiary.

(iii) Equipment maintenance. Reasonable repairs and maintenance of beneficiary owned or rented durable equipment provided by this section shall be allowed while a beneficiary is registered in the ECHO.

**(d) ECHO Exclusions--**(1) Basic Program. Benefits allowed under the TRICARE Basic Program will not be provided through the ECHO.

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- (2) Inpatient care. Inpatient acute care for medical or surgical treatment of an acute illness, or of an acute exacerbation of the qualifying condition, is excluded.
- (3) Structural alterations. Alterations to living space and permanent fixtures attached thereto, including alterations necessary to accommodate installation of equipment or to facilitate entrance or exit, are excluded.
- (4) Homemaker services. Services that predominantly provide assistance with household chores are excluded.
- (5) Dental care or orthodontic treatment. Both are excluded.
- (6) Deluxe travel or accommodations. The difference between the price for travel or accommodations that provide services or features that exceed the requirements of the beneficiary's condition and the price for travel or accommodations without those services or features is excluded.
- (7) Equipment. Purchase or rental of durable equipment **that is** otherwise allowed by this section **is** excluded when:
- (i) The beneficiary is a patient in an institution or facility that ordinarily provides the same type of equipment to its patients at no additional charge in the usual course of providing services; or
  - (ii) The item is available to the beneficiary from a Uniformed Services Medical Treatment Facility; or
  - (iii) The item has deluxe, luxury, immaterial or nonessential features that increase the cost to the Department relative to a similar item without those features; or
  - (iv) The item is duplicate equipment as defined in Sec. 199.2.
- (8) Maintenance agreements. Maintenance agreements for beneficiary owned or rented equipment are excluded.
- (9) No obligation to pay. Services or items for which the beneficiary or sponsor has no legal obligation to pay are excluded.
- (10) Public facility or Federal government. Services or items paid for, or eligible for payment, directly or indirectly by a public facility, as defined in Sec. 199.2, or by the Federal government, other than the Department of Defense, are excluded for training, rehabilitation, special education, assistive technology devices, institutional care in private nonprofit, public, and state institutions and facilities, and if appropriate, transportation to and from such institutions and facilities, except when such services or items are eligible for payment under a state plan for medical assistance under Title XIX of the Social Security Act (Medicaid). Rehabilitation and assistive technology services or supplies may be available under the TRICARE Basic Program.
- (11) Study, grant, or research programs. Services and items provided as a part of a scientific clinical study, grant, or research program are excluded.

(12) Unproven status. Drugs, devices, medical treatments, diagnostic, and therapeutic procedures for which the safety and efficacy have not been established in accordance with Sec. 199.4 are excluded.

(13) Immediate family or household. Services or items provided or prescribed by a member of the beneficiary's immediate family, or a person living in the beneficiary's or sponsor's household, are excluded.

(14) Court or agency ordered care. Services or items ordered by a court or other government agency, which are not otherwise an allowable ECHO benefit, are excluded.

(15) Excursions. Excursions are excluded regardless of whether or not they are part of a program offered by a TRICARE-authorized provider. The transportation benefit available under ECHO is specified elsewhere in this section.

(16) Drugs and medicines. Drugs and medicines that do not meet the requirements of Sec. 199.4 or Sec. 199.21 are excluded.

(17) Therapeutic absences. Therapeutic absences from an inpatient facility or from home for a homebound beneficiary are excluded.

(18) Custodial care. Custodial care, as defined in Sec. 199.2 is not a stand-alone benefit. Services generally rendered as custodial care may be provided only as specifically set out in this section.

(19) Domiciliary care. Domiciliary care, as defined in Sec. 199.2, is excluded.

(20) Respite care. Respite care for the purpose of covering primary caregiver (as defined in Sec. 199.2) absences due to deployment, employment, seeking of employment or to pursue education is excluded. Authorized respite care covers only the ECHO beneficiary, not siblings or others who may reside in or be visiting in the beneficiary's residence.

**(e) ECHO Home Health Care (EHHC).** The EHHC benefit provides coverage of home health care services and respite care services specified in this section.

(1) Home health care. Covered ECHO home health care services are the same as, and provided under the same conditions as those services described in Sec. 199.4(e)(21)(i), except that they are not limited to part-time or intermittent services. Custodial care services, as defined in Sec. 199.2, may be provided to the extent such services are provided in conjunction with authorized ECHO home health care services, including the EHHC respite care benefit specified in **this section**. Beneficiaries who are authorized EHHC will receive all home health care services under EHHC and no portion will be provided under the Basic Program. TRICARE-authorized home health agencies are not required to use the Outcome and Assessment Information Set (OASIS) to assess beneficiaries who are authorized EHHC.

(2) Respite care. EHHC beneficiaries whose plan of care includes frequent interventions by the primary caregiver(s) are eligible for respite care services in lieu of the ECHO general respite care benefit. For the purpose of this section, the term "frequent" means "more than two interventions during the eight-hour period per day that the primary caregiver would normally be sleeping." The services performed by the primary caregiver are those that can be

performed safely and effectively by the average non-medical person without direct supervision of a health care provider after the primary caregiver has been trained by appropriate medical personnel. EHHHC beneficiaries in this situation are eligible for a maximum of eight hours per day, 5 days per week, of respite care by a TRICARE-authorized home health agency. The home health agency will provide the health care interventions or services for the covered beneficiary so that the primary caregiver is relieved of the responsibility to provide such interventions or services for the duration of that period of respite care. The home health agency will not provide baby-sitting or child care services for other members of the family. The benefit is not cumulative, that is, any respite care hours not used in a given day may not be carried over or banked for use on another occasion. Additionally, the eight-hour respite care periods will not be provided consecutively, that is, a respite care period on one calendar day will not be immediately followed by a respite care period the next calendar day. The Government's cost-share incurred for these services accrue to the maximum yearly ECHO Home Health Care benefit.

(3) EHHHC eligibility. The EHHHC is authorized for beneficiaries who meet all applicable ECHO eligibility requirements and who:

(i) Physically reside within the 50 United States, the District of Columbia, Puerto Rico, the Virgin Islands, or Guam; and

(ii) Are homebound, as defined in Sec. 199.2; and

(iii) Require medically necessary skilled services that exceed the level of coverage provided under the Basic Program's home health care benefit; **and/or**

(iv) Require frequent interventions by the primary caregiver(s) such that respite care services are necessary to allow primary caregiver(s) the opportunity to rest; and

(v) Are case managed to include a reassessment at least every 90 days, and receive services as outlined in a written plan of care; and

(vi) Receive all home health care services from a TRICARE-authorized home health agency, as described in Sec. 199.6(b)(4)(xv), in the beneficiary's primary residence.

(4) EHHHC plan of care. A written plan of care is required prior to authorizing ECHO home health care. The plan must include the type, frequency, scope and duration of the care to be provided and support the professional level of provider. Reimbursement will not be authorized for a level of provider not identified in the plan of care.

(5) EHHHC exclusions--(i) General. ECHO Home Health Care services and supplies are excluded from those who are being provided continuing coverage of home health care as participants of the former Individual Case Management Program for Persons with Extraordinary Conditions (ICMP-PEC) or previous case management demonstrations.

(ii) Respite care. Respite care for the purpose of covering primary caregiver absences due to deployment, employment, seeking of employment or to pursue education is excluded. Authorized respite care covers only the ECHO beneficiary, not siblings or others who may reside in or be visiting in the beneficiary's residence.

(f) **Cost-share liability**--(1) No deductible. ECHO benefits are not subject to a deductible amount.

(2) Sponsor cost-share liability. Regardless of the number of family members receiving ECHO benefits or ECHO Home Health Care in a given month, the sponsor's cost-share is according to the following table:

TABLE 1.-- MONTHLY COST-SHARE BY MEMBER'S PAY GRADE

E-1 through E-5 .....	\$25
E-6.....	30
E-7 and O-1 .....	35
E-8 and O-2 .....	40
E-9, W-1, W-2 and O-3 .....	45
W-3, W-4 and O-4.....	50
W-5 and O-5.....	65
O-6.....	75
O-7.....	100
O-8.....	150
O-9.....	200
O-10.....	250

(i) The Sponsor's cost-share shown in Table 1 in paragraph (f)(2)(i) of this section will be applied to the first allowed ECHO charges in any given month. The Government's share will be paid, up to the maximum amount specified in paragraph (f)(3) of this section, for allowed charges after the sponsor's cost-share has been applied.

(ii) The provisions of Sec. 199.18(d)(1) and (e)(1) regarding elimination of copayments for active duty family members enrolled in TRICARE Prime do not eliminate, reduce, or otherwise affect the sponsor's cost-share shown in Table 1 in paragraph (f)(2)(i) of this section.

(iii) The sponsor's cost-share shown in Table 1 in paragraph (f)(2)(i) of this section does not accrue to the Basic Program's Catastrophic Loss Protection under 10 U.S.C. 1079(b)(5) as shown at Secs. 199.4(f)(10) and 199.18(f).

(3) Government cost-share liability--(i) ECHO. The total Government share of the cost of all ECHO benefits, except ECHO home health care EHHHC respite care, provided in a given month to a beneficiary may not exceed \$2,500 after application of the allowable payment methodology.

(ii) ECHO home health care. (A) The maximum annual **fiscal year** Government cost-share **per EHHHC-eligible beneficiary** for ECHO home health care, including EHHHC respite care may not exceed the local wage-adjusted highest Medicare Resource Utilization Group (RUG-III) category cost for care in a TRICARE-authorized skilled nursing facility.

(B) When a beneficiary moves to a different locality within the 50 United States, the District of Columbia, Puerto Rico, the Virgin Islands, or Guam, the annual fiscal year cap will be

recalculated to reflect the maximum established under paragraph (f)(3)(ii)(A) of this section for the beneficiary's new location and will apply to the ECHC benefit for the remaining portion of that fiscal year.

**(g) Benefit payment--**(1) Transportation. The allowable amount for transportation of an ECHO beneficiary is limited to the actual cost of the standard published fare plus any standard surcharge made to accommodate any person with a similar disability or to the actual cost of specialized medical transportation when non-specialized transport cannot accommodate the beneficiary's qualifying condition related needs, or when specialized transport is more economical than non-specialized transport. When transport is by private vehicle, the allowable amount is limited to the Federal government employee mileage reimbursement rate in effect on the date the transportation is provided.

(2) Equipment. (i) The TRICARE allowable amount for durable equipment shall be calculated in the same manner as durable medical equipment allowable through Sec. 199.4.

(ii) Allocating equipment expense. The ECHO beneficiary (or sponsor or guardian acting on the beneficiary's behalf) may, only at the time of the request for authorization of equipment, specify how the allowable cost of the equipment is to be allocated as an ECHO benefit. The entire allowable cost of the authorized equipment may be allocated in the month of purchase provided the allowable cost does not exceed the ECHO maximum monthly benefit of \$2,500 or it may be prorated regardless of the allowable cost. Prorating permits the allowable cost of ECHO-authorized equipment to be allocated such that the amount allocated each month does not exceed the maximum monthly benefit.

(A) Maximum period. The maximum number of consecutive months during which the allowable cost may be prorated in the lesser of:

(1) The number of months calculated by dividing the allowable cost for the item by 2,500 and then doubling the resulting quotient, rounded off to the nearest whole number; or

(2) The number of months of expected useful life of the equipment for the requesting beneficiary, as determined by the Director, TRICARE Management Activity or designee.

(B) Alternative allocation period. The allowable equipment cost may be allocated monthly in any amount such that the maximum allowable monthly ECHO benefit of \$2,500 or the maximum period under paragraph (g)(2)(ii)(A) of this section, is not exceeded.

(C) Authorization. (1) The amount allocated each month as determined in accordance with paragraph (g)(2)(ii) of this section will be separately authorized as an ECHO benefit.

(2) An item of durable equipment shall not be authorized when such authorization would allow cost-sharing of duplicate equipment, as defined in Sec. 199.2, for the same beneficiary.

(D) Cost-share. A cost-share, as provided by paragraph (f)(2) of this section, is required for each month in which a prorated amount is authorized.

(E) Termination. The sponsor's monthly cost-share and the prorated equipment expense provisions provided by paragraphs (f) and (g) of this section, shall be terminated as of the

first day of the month following the death of a beneficiary or as of the effective date of a beneficiary's loss of ECHO eligibility for any other reason.

(3) For-profit institutional care provider. Institutional care provided by a for-profit entity may be allowed only when the care for a specific ECHO beneficiary:

(i) Is contracted for by a public facility as a part of a publicly funded long-term inpatient care program; and

(ii) Is provided based upon the ECHO beneficiary's being eligible for the publicly funded program which has contracted for the care; and

(iii) Is authorized by the public facility as a part of a publicly funded program; and

(iv) Would cause a cost-share liability in the absence of TRICARE eligibility; and

(v) Produces an ECHO beneficiary cost-share liability that does not exceed the maximum charge by the provider to the public facility for the contracted level of care.

(4) ECHO home health care and ECHC respite care. (i) TRICARE-authorized home health agencies must provide and bill for all authorized home health care services through established TRICARE claims' mechanisms. No special billing arrangements will be authorized in conjunction with coverage that may be provided by Medicaid or other federal, state, community or private programs.

(ii) For authorized ECHO home health care and respite care, TRICARE will reimburse the allowable charges or negotiated rates.

(iii) The maximum monthly Government reimbursement for ECHC, including ECHC respite care, will be based on the actual number of hours of ECHC services rendered in the month, but in no case will it exceed one-twelfth of the annual maximum Government cost-share as determined in this section.

(h) **Other Requirements**-(1) Applicable part. All provisions of this part, except the provisions of Sec. 199.4 unless otherwise provided by this section or as directed by the Director, TRICARE Management Activity or designee, apply to the ECHO.

(2) Registration. Active duty sponsors must register potential ECHO eligible beneficiaries through the Director, TRICARE Management Activity or designee prior to receiving ECHO benefits. The Director, TRICARE Management Activity or designee will determine ECHO eligibility and update the Defense Enrollment Eligibility Reporting System (DEERS) accordingly. Sponsors must provide evidence of enrollment in the Exceptional Family Member Program provided by their branch of Service at the time they register their family member(s) for the ECHO.

(3) **Benefit authorization.** All ECHO benefits require authorization by the Director, TRICARE Management Activity or designee prior to receipt of such benefits.

(i) Documentation. The sponsor shall provide such documentation as the Director, TRICARE Management Activity or designee requires as a prerequisite to authorizing ECHO

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benefits. Such documentation shall describe how the requested benefit will contribute to confirming, arresting, or reducing the disabling effects of the qualifying condition, including maintenance of function or prevention of further deterioration of function, of the beneficiary.

(ii) Format. An authorization issued by the Director, TRICARE Management Activity or designee shall specify such description, dates, amounts, requirements, limitations or information as necessary for exact identification of approved benefits and efficient adjudication of resulting claims.

(iii) Valid period. An authorization for ECHO benefits shall be valid until such time as the Director, TRICARE Management Activity or designee determines that the authorized services are no longer appropriate or required or the beneficiary is no longer eligible under paragraph (b) of this section.

(iv) Authorization waiver. The Director, TRICARE Management Activity or designee may waive the requirement for a written authorization for rendered ECHO benefits that, except for the absence of the written authorization, would be allowable as an ECHO benefit.

(v) Public facility use. (A) An ECHO beneficiary residing within a state must demonstrate that a public facility is not available and adequate to meet the needs of their qualifying condition. Such requirement shall apply to beneficiaries who request authorization for training, rehabilitation, special education, assistive technology, and institutional care in private nonprofit, public, and state institutions and facilities, and if appropriate, transportation to and from such institutions and facilities. The maximum Government cost-share for services that require demonstration of public facility non-availability or inadequacy is limited to \$2,500 per month per beneficiary. State-administered plans for medical assistance under Title XIX of the Social Security Act (Medicaid) are not considered available and adequate facilities for the purpose of this section.

(B) The domicile of the beneficiary shall be the basis for the determination of public facility availability when the sponsor and beneficiary are separately domiciled due to the sponsor's move to a new permanent duty station or due to legal custody requirements.

(C) Written certification, in accordance with information requirements, formats, and procedures established by the director, TRICARE Management Activity or designee that requested ECHO services or items cannot be obtained from public facilities because the services or items are not available and adequate, is a prerequisite for ECHO benefit payment for training, rehabilitation, special education, assistive technology, and institutional care in private nonprofit, public, and state institutions and facilities, and if appropriate, transportation to and from such institutions and facilities.

(1) An administrator or designee of a public facility may make such certification for a beneficiary residing within the service area of that public facility.

(2) The Director, TRICARE Management Activity or designee may determine, on a case-by-case basis, that apparent public facility availability or adequacy for a requested type of service or item cannot be substantiated for a specific beneficiary's request for ECHO benefits and therefore is not available.

(i) A case-specific determination shall be based upon a written statement by the

beneficiary (or sponsor or guardian acting on behalf of the beneficiary) which details the circumstances wherein a specific individual representing a specific public facility refused to provide a public facility use certification, and such other information as the Director, TRICARE Management Activity or designee determines to be material to the determination.

(ii) A case-specific determination of public facility availability by the Director, TRICARE Management Activity or designee is conclusive and is not appealable under Sec. 199.10.

(4) Repair or maintenance of beneficiary owned durable equipment is exempt from the public facility use certification requirements.

(5) The requirements of this paragraph (i)(4)(v) notwithstanding, no public facility use certification is required for services and items that are provided under Part C of the Individuals with Disabilities Education Act in accordance with the Individual Family Services Plan and that are otherwise allowable under the ECHO.

(i) **Implementing instructions.** The Director, TRICARE Management Activity or designee shall issue TRICARE policies, instructions, procedures, guidelines, standards, and criteria as may be necessary to implement the intent of this section.

(j) **Implementation transition.** Pending administrative actions necessary for the effective implementation of this section following its publication in the Federal Register on August 20, 2004, this section as it existed prior to August 20, 2004, shall remain in effect for a period of not less than 30 days following its publication in the Federal Register.

[62 FR 35093, Jun. 30, 1997, as amended at 62 FR 42904, Aug. 11, 1997; 66 FR 9655, Feb. 9, 2001; 67 FR 18827, Apr. 17, 2002; 69 FR 44947, Jul. 28, 2004; 69 FR 51564, Aug. 20, 2004]

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